98TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
98-1025

CIVIL AERONAUTICS BOARD SUNSET ACT OF 1984

SEPTEMBER 14, 1984.—Ordered to be printed

Mr. MINETA, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 5297]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5297) to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Aeronautics Board Sunset Act of 1984".

AMENDMENT OF FEDERAL AVIATION ACT OF 1958

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.).

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TERMINATION AND TRANSFER OF FUNCTIONS UNDER THE FEDERAL AVIATION ACT OF 1958

SEC. 3. (a) Section 1601(b)(1)(C) is amended by striking out "Justice" and inserting in lieu thereof "Transportation".

(b) Section 1601(a)(3) is amended by inserting after "Act" the following: "(other than section 204)".

(c) Section 1601(a) is amended by adding at the end thereof the following:

"(4) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1985:

"(A) Sections 401 (l) and (m) and 405 (b), (c), and (d) of this Act (except insofar as such sections apply to the transportation of mail between two points both of which are with the State of Alaska).

"(B) Section 403 of this Act.

"(C) Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service).

"(5) The following provisions of this Act and the authority of the Board with respect to such provisions shall cease to be in effect on January 1, 1985:

"(A) Sections 407 (b) and (c) of this Act.

"(B) Section 410 of this Act.

"(C) Section 417 of this Act.

"(D) Sections 1002(d), (e), (g), (h), and (i) of this Act (except insofar as any of such sections relate to foreign air transportation).

"(6) Sections 412(a) and (b) of this Act (to the extent such sections relate to interstate and overseas air transportation) and section 414 of this Act (to the extent such section relates to orders made under sections 412(a) and (b) with respect to interstate and overseas air transportation) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.

"(7) Sections 408 and 409 of this Act and section 414 of this Act (relating to such sections 408 and 409) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.

"(8) Sections 401(l) and (m) and 405(b), (c), and (d) of this Act (to the extent such sections apply to the transportation of mail between two points both of which are within the State of Alaska) shall cease to be in effect on January 1, 1989.".

(d) Section 1601(b)(1)(D) is amended by inserting after "transportation" the following: "(other than for the carriage of mails between any two points both of which are within the State of Alaska)".

(e) Section 1601(b)(1) is amended by adding at the end thereof the following:

"(E) All authority of the Board under this Act which is not terminated under subsection (a) of this section on or before January 1, 1985, and is not otherwise transferred under this subsection is transferred to the Department of Transportation.".

(f) Section 1601(b) is amended by adding at the end thereof the following:

"(3) The authority of the Secretary of Transportation under this Act with respect to the determination of the rates for the carriage of mails between any two points both of which are within the State of Alaska is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding. The transfer of authority under this paragraph shall take effect on January 1, 1989.".

TRANSFERS OF FUNCTIONS UNDER OTHER LAWS

SEC. 4. (a) There are hereby transferred to and vested in the Secretary of Transportation all functions, powers, and duties of the Civil Aeronautics Board under the following provisions of law:

(1) The International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b).

(2) The International Aviation Facilities Act (49 U.S.C. 1151–1160).

(3) The Animal Welfare Act (7 U.S.C. 2131 et seq.).

(4) Section 11 of the Clayton Act (15 U.S.C. 21).

(5) Sections 108(a)(4), 621(b)(5), 704(a)(5), and 814(b)(5) of the Consumer Credit Protection Act (15 U.S.C. 1607(a)(4), 1681s(b)(5), 1691c(a)(5), and 1692l(b)(5)).

(6) Section 382 of the Energy Policy and Conservation Act (89 Stat. 939, 42 U.S.C. 6362).

(7) Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451).

(8) Section 5402 of title 39, United States Code (to the extent such section relates to foreign air transportation and to air transportation between any two points both of which are within the State of Alaska).

(9) Sections 4746 and 9746 of title 10, United States Code.

(10) Section 3 of the Act entitled "An Act to encourage travel in the United States, and for other purposes" (16 U.S.C. 18b).

(b) The transfer of any authority under subsection (a) of this section shall take effect on January 1, 1985.

(c) The authority of the Secretary of Transportation under section 5402 of title 39, United States Code, with respect to air transportation between any two points both of which are within the State of Alaska shall cease to be in effect on January 1, 1989.

COLLECTION OF DATA

SEC. 5. (a) Section 329(b)(1) of title 49, United States Code, is amended to read as follows:

"(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)) including, at a minimum, information on (A) the origin and destination of passengers in interstate and overseas air transportation (as those terms are used in such Act), and (B) the number of passengers traveling by air between any two points in interstate and overseas air transportation; except that in no case shall the Secre-

tary require an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight if the flight and the flight number under which such flight operates are used solely for interstate or overseas air transportation and are not used for providing essential air transportation under section 419 of the Federal Aviation Act of 1958;".

(b) The amendment made by this section shall take effect on January 1, 1985.

REPORTS

SEC. 6. (a) The Secretary of Transportation shall submit a report to the appropriate committees of Congress not later than July 1, 1987, listing (1) transactions submitted to the Secretary for approval under section 408 of the Federal Aviation Act of 1958, (2) interlocking relations submitted to the Secretary for approval under section 409 of such Act, and (3) the types of agreements filed with the Secretary of Transportation under section 412 of such Act, and, with respect to such transactions, interlocking relationships, and agreements, those that have been exempted from the operation of the antitrust laws under section 414 of such Act. The Secretary shall recommend whether the authority under such sections 408, 409, 412, and 414 should be retained or repealed with respect to interstate and overseas air transportation and with respect to foreign air transportation.

(b) The Secretary of Transportation and the Postmaster General shall each submit a report to the appropriate committees of Congress not later than July 1, 1987, describing how the Secretary and the Postmaster General have administered their respective authorities to establish rates for the air transportation of mail and setting forth the recommendations of the Secretary and the Postmaster General as to whether the authority to establish rates for the transportation of mail between points within the State of Alaska should continue to be carried out by the Secretary by regulatory ratemaking or by the Postal Service through negotiations or competitive bidding.

INCORPORATION BY REFERENCE

SEC. 7. (a) Section 411 of the Federal Aviation Act of 1958 is amended by inserting "(a)" after "SEC. 411." and by adding at the end thereof the following new subsection:

"INCORPORATION BY REFERENCE

"(b) Any air carrier may incorporate by reference in any ticket or other written instrument any of the terms of the contract of carriage in interstate and overseas air transportation, to the extent such incorporation by reference is in accordance with regulations issued by the Board.".

(b) Section 411 of the Federal Aviation Act of 1958 is amended by inserting before subsection (a) (as designated by subsection (a) of this section) the following subsection heading:

"INVESTIGATIONS"

(c) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 411. Methods of competition."

and inserting in lieu thereof

"Sec. 411. Methods of competition.
"(a) Investigations.
"(b) Incorporation by reference.".

REFERENCES TO CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

SEC. 8. Any reference in any law to a certificate of public convenience and necessity, or to a certificate of convenience and necessity, issued by the Civil Aeronautics Board shall be deemed to refer to a certificate issued under section 401 or 418 of the Federal Aviation Act of 1958.

MISCELLANEOUS AMENDMENTS

SEC. 9. (a)(1) Section 101(11) is amended to read as follows:

"(11) 'All-cargo air service' means the carriage by aircraft in interstate or overseas air transportation of only property or mail, or both.".

(2) Section 418(b)(3) is repealed.

(b) Section 1307(a) is amended by striking out ", after consultation with the Civil Aeronautics Board,".

(c) Section 11 of the International Aviation Facilities Act (49 U.S.C. 1159a) is amended in the second sentence by striking out "and the Civil Aeronautics Board" and by striking out "in collaboration with the Civil Aeronautics Board" and inserting in lieu thereof "in collaboration with the Secretary of Transportation".

(d) Section 2 of the International Air Transportation Fire Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by—

(1) striking out "the Civil Aeronautics Board," in subsection (a);

(2) striking out "Civil Aeronautics Board" and "Board" each time they appear in subsection (b) and the first sentence of subsection (d) and inserting in lieu thereof "Secretary of Transportation" and "Secretary", respectively;

(3) striking out "and the Department of Transportation" in subsection (b)(2); and

(4) striking out the last sentence in subsection (d) and inserting in lieu thereof the following: "The Secretaries of State and Treasury shall furnish to the Secretary of Transportation such information as may be necessary to prepare the report required by this subsection.".

(e) Section 5314 of title 5, United States Code, is amended by striking out "Chairman, Civil Aeronautics Board.". Section 5315 of title 5, United States Code, is amended by striking out "Members, Civil Aeronautics Board.".

(f) Section 3726(b)(1) of title 31, United States Code, is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation with respect to foreign air transportation (as defined in the Federal Aviation Act of 1958)".

(g)(1) Sections 3401(b) and (c) of title 39, United States Code, are each amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(2) Section 5005(b)(3) of title 39, United States Code, is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation if for the carriage of mail in foreign air transportation (as defined in section 101 of the Federal Aviation Act of 1958)".

(3) Section 5401(b) of title 39, United States Code, is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(4) Section 5402 of title 39, United States Code, is amended—

(A) by striking out "Civil Aeronautics Board" each place it appears and inserting in lieu thereof "Secretary of Transportation";

(B) in the first sentence of subsection (a), by inserting "in foreign air transportation" after "points";

(C) in the second sentence of subsection (a), by striking out "10 percent of the domestic mail transported under any such contract or";

(D) in the first sentence of subsection (b), by inserting "in foreign air transportation" after "points";

(E) in the first sentence of subsection (c), by inserting "in foreign air transportation" after "points"; and

(F) by adding at the end thereof the following new subsections:

"(d) The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate and overseas air transportation either through negotiations or competitive bidding.

"(e) For purposes of this section, the terms 'air carrier', 'interstate air transportation', 'overseas air transportation', and 'foreign air transportation' have the meanings given such terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

"(f) During the period beginning January 1, 1985, and ending January 1, 1989, the authority of the Secretary of Transportation and the Postal Service under subsections (a), (b), and (c) of this section shall also apply, and the authority of the Postal Service under subsection (d) shall not apply, to the transportation of mail by aircraft between any two points both of which are within the State of Alaska and between which the air carrier is authorized by the Secretary to engage in the transportation of mail.".

(h) Section 3502(10) of title 44, United States Code, is amended by striking out "the Civil Aeronautics Board,".

(i) Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking out "the Civil Aeronautics Board" and inserting in lieu thereof "the Secretary of Transportation".

(j) Section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) is amended by striking out "the Civil Aeronautics Board".

(k) Sections 4746 and 9746 of title 10, United States Code, are each amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(l) Section 7 of the Clayton Act (15 U.S.C. 18) is amended in the final paragraph by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation" and by striking out "Commission, Secretary, or Board" and inserting in lieu thereof "Commission or Secretary".

(m) Section 11 of the Clayton Act (15 U.S.C. 21) is amended—

(1) in subsection (a), by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation" and by striking out "Civil Aeronautics Act of 1938" and inserting in lieu thereof "Federal Aviation Act of 1958";

(2) in subsection (b), by striking out "Commission or Board" each place it appears and inserting in lieu thereof "Commission, Board, or Secretary"; and

(3) by striking out "commission or board" each place it appears in such section and inserting in lieu thereof "commission, board, or Secretary".

(n) The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation" each place it appears in section 108(a)(4) (15 U.S.C. 1607(a)(4)), section 621(b)(5) (15 U.S.C. 1681s(b)(5)), section 704(a)(5) (15 U.S.C. 1691c(a)(5)), and section 814(b)(5) (15 U.S.C. 1692l(b)(5)).

(o) Section 3 of the Act entitled "An Act to encourage travel in the United States, and for other purposes" (16 U.S.C. 18b; 54 Stat. 773), is amended by striking out "the Civil Aeronautics Authority,".

(p) Section 47(a)(7)(C) of the Internal Revenue Code of 1954 is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(q) Section 7701(a)(33)(E) of the Internal Revenue Code of 1954 is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(r) Section 419(c)(1) is amended by striking out "416(b)(3)" and inserting in lieu thereof "416(b)(4)".

(s) Section 412(c)(2) is amended by striking out "subsection (c) of this section" and inserting in lieu thereof "subsection (a) of this section".

(t) Section 407(e) is amended by striking out the first sentence and inserting in lieu thereof the following: "The Board shall have access to all lands, buildings, and equipment of any air carrier or foreign air carrier when necessary for a determination under section 401, 402, 418, or 419 of this title that such carrier is fit, willing, and able. The Board shall at all times have access to all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents. The Board may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection.".

(u) Section 105(a)(1) is amended by striking out "interstate air transportation" and inserting in lieu thereof "air transportation".

(v) The amendments made by this section shall take effect on January 1, 1985.

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 10. (a) The personnel (including members of the Senior Executive Service) employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with, any function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, subject to section 1531 of title 31, United States Code, shall be transferred to the head of the agency to which such function is transferred for appropriate allocation. Personnel employed in connection with functions so transferred, or transferred in accordance with any other lawful authority, shall be transferred in accordance with any applicable laws and regulations relating to transfer of functions. Unexpended funds transferred pursuant to this subsection shall only be used for the purpose for which the funds were originally authorized and appropriated.

(b) In order to facilitate the transfers made by section 1610(b) of the Federal Aviation Act of 1958 and section 4 of this Act, the Director of the Office of Management and Budget is authorized and directed, in consultation with the Civil Aeronautics Board and the heads of the agencies to which functions are so transferred, to make such determinations as may be necessary with regard to the functions so transferred, and to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with, such functions, as may be necessary to resolve disputes between the Civil Aeronautics Board and the agencies to which functions are transferred by section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act.

(c) The Chairman of the Civil Aeronautics Board and the Secretary of Transportation shall, beginning as soon as practicable after the date of enactment of this Act, jointly plan for the orderly transfer of functions and personnel pursuant to section 1610(b) of the Federal Aviation Act of 1958 and section 4 of this Act.

EFFECT ON PERSONNEL

SEC. 11. (a) Employees covered by the merit pay system under chapter 54 of title 5, United States Code, who are transferred under section 10 of this Act to another agency shall have their rate of basic pay adjusted in accordance with section 5402 of such title. With respect to the evaluation period during which such an employee is transferred, merit pay determinations for that employee shall be based on the factors in section 5402(b)(2) of such title as appraised in performance appraisals administered by the Civil Aeronautics Board in accordance with chapter 43 of title 5, United States Code, in addition to those administered by the agency to which the employee is transferred.

(b) With the consent of the Civil Aeronautics Board, the head of each agency to which functions are transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act is authorized to use the services of such officers, employees, and other personnel of the Board for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

SAVINGS PROVISIONS

SEC. 12. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any agency or official thereof, or by a court of competent jurisdiction, in the performance of any function which is transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act from the Civil Aeronautics Board to another agency, and

(2) which are in effect on December 31, 1984,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the head of the agency to which such function is transferred, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The transfers of functions made by section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time such transfers take effect before the Civil Aeronautics Board; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if such sections 1601(b) and 4 had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if such sections 1601(b) and 4 had not been enacted.

(c) Except as provided in subsection (e)—

(1) the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act shall not affect any suit relating to such function which is commenced prior to the date the transfer takes effect, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Civil Aeronautics Board shall abate by reason of the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act. No cause of action by or against the Civil Aeronautics

Board, or by or against any officer thereof in his official capacity shall abate by reason of the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act.

(e) If, before January 1, 1985, the Civil Aeronautics Board, or officer thereof in his official capacity, is a party to a suit relating to a function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, then such suit shall be continued with the head of the Federal agency to which the function is transferred.

(f) With respect to any function transferred to another agency by section 1601(b) of the Federal Aviation Act of 1958 or by section 4 of this Act and exercised after the effective date of such transfer, reference in any Federal law (other than title XVI of the Federal Aviation Act of 1958) to the Civil Aeronautics Board or the Board (insofar as such term refers to the Civil Aeronautics Board), or to any officer or office of the Civil Aeronautics Board, shall be deemed to refer to that agency, or other official or component of the agency, in which such function vests.

(g) In the exercise of any function transferred under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, the head of the agency to which such function is transferred shall have the same authority as that vested in the Civil Aeronautics Board with respect to such function, immediately preceding its transfer, and actions of the head of such agency in exercising such function shall the same force and effect as when exercised by the Civil Aeronautics Board.

(h) In exercising any function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, the head of the agency to which such function is transferred shall give full consideration to the need for operational continuity of the function transferred.

DEFINITIONS

SEC. 13. For purposes of this Act—

(1) the term "agency" has the same meaning such term has in section 551(1) of title 5, United States Code; and

(2) the term "function" means a function, power, or duty.

ACCESS FOR HANDICAPPED PERSONS

SEC. 14. Section 104 is amended by adding at the end thereof the following new sentence: "In the futherance of such right, the Board or the Secretary, as the case may be, shall consult with the Architectual and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973, prior to issuing or amending any order, rule, regulation, or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped person.".

STUDY OF TRANSPORTATION TO AND FROM WASHINGTON DULLES AIRPORT

SEC. 15. (a) The Secretary of Transportation shall study the feasibility of constructing a rail rapid transit line between the West

Falls Church, Virginia, station of the Washington, D.C. metrorail system and Dulles International Airport in Virginia. The study shall include, but need not be limited to, a study of the feasibility of heavy rail, light rail, monorail, magnetic levitation systems, and any other appropriate transportation systems. The Secretary shall study the feasibility of each such system with and without intermediate stops.

(b) The Secretary shall complete the study required by subsection (a) and transmit the results thereof to Congress not later than one year after the date of enactment of this Act.

AIR SERVICE IN THE STATE OF ALASKA

SEC. 16. (a)(1) Notwithstanding any other provision of law, with respect to air transportation to each of the points in Alaska listed in paragraph (4), essential air transportation for purposes of section 419 of the Federal Aviation Act of 1958 shall neither be specified at a level of service nor operated with aircraft of lesser seating and cargo capacity than provided for in CAB Order 80-1-167 and its Appendices unless otherwise specified under an agreement between the Department of Transportation and the State of Alaska, after consultation with the community affected. This paragraph shall cease to be in effect on January 1, 1987.

(2) Notwithstanding any other provision of law, the total amount of compensation which may be paid under section 419 of the Federal Aviation Act of 1958 with respect to the points in Alaska listed in paragraph (4) shall not exceed $3,572,778 for each of the fiscal years 1985 and 1986 and shall not exceed $893,195 for service provided during the period beginning October 1, 1986, and ending at the close of December 31, 1986.

(3) The Secretary of Transportation shall study the feasibility of providing essential air transportation to each of the points in Alaska listed in paragraph (4) with aircraft having a smaller capacity than that required by paragraph (1), the level of compensation which would be required under section 419 of the Federal Aviation Act of 1958 for such transportation, and the impact of using such aircraft on the air transportation system in Alaska. The Secretary shall complete such study and submit a report of the results of such study to Congress not later than January 1, 1986.

(4) The points in Alaska referred to in paragraphs (1), (2), and (3) are Cordova, Yakutak, Gustavus, Petersberg, and Wrangell.

(b) Notwithstanding any other provision of law, no part of the order of the Civil Aeronautics Board in CAB docket number 38961 (CAB Order 84-6-77) shall enter into effect until after December 31, 1984.

And the Senate agree to the same.

NORMAN Y. MINETA,
GLENN M. ANDERSON,
ROBERT A. ROE,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

BOB PACKWOOD,
BARRY GOLDWATER,
NANCY LANDON KASSEBAUM,
FRITZ HOLLINGS,
J.J. EXON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5297) to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

Section 1 provides that the Act may be cited as the "Civil Aeronautics Board Sunset Act of 1984".

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

CROSS REFERENCE

House bill

Section 2 of the House bill provides that unless otherwise expressly stated, all references to provisions of law in this legislation shall be considered to be references to the Federal Aviation Act of 1958.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

TERMINATION AND TRANSFER OF FUNCTIONS UNDER THE FEDERAL AVIATION ACT OF 1958

House bill

Section 3 of the House bill provides for the termination and transfer of the authority of the Civil Aeronautics Board under the Federal Aviation Act, as follows:

(a) Amends the Federal Aviation Act of 1958 to provide that after the sunset of the Civil Aeronautics Board (CAB) on December 31, 1984, CAB's authority under Sections 408 (consolidation, merger, and acquisition of control), 409 (interlocking relationships), and Section 412 (pooling and other agreements), and CAB's related authority under Section 414 (antitrust exemption) will be administered by the Department of Transportation (DOT).

(b) Amends the Federal Aviation Act to provide that there will be no termination of the authority of the Civil Aeronautics Board under Section 204 of the Act, which includes CAB's rulemaking authority. CAB's authority under Section 204 will be transferred to the Department of Transportation on January 1, 1985.

(c) Provides that specified provisions of the Federal Aviation Act will cease to be in effect on January 1, 1985. Many of these provisions have already ceased to be effective by operation of the Deregulation Act of 1978 for interstate or overseas transportation or persons and by operation of CAB regulation for interstate and overseas transportation of property.

The following provisions of the Federal Aviation Act will cease to be in effect for interstate and overseas air transportation after January 1, 1985; Sections 401 (l) and (m) which require certificated air carriers to carry mail; Sections 405 (b), (c), and (d) which give the Postal Service and CAB various authority to require the carriage of mail; Section 403, which requires air carriers to provide reasonable through service and joint fares and prohibits unjust discrimination (this section continues in effect insofar as it requires air carriers to provide safe and adequate service).

The following provisions of the Federal Aviation Act will cease to be in effect for any transportation after January 1, 1985: Sections 407 (b) and (c), which impose reporting requirements relating to stock ownership of air carriers and stock ownership by air carrier officers and directors; Section 410, which gives CAB authority over applications for loans and financial aid from the U.S. Government; Section 417, which authorizes CAB to allow charter air carriers to provide scheduled service in specified circumstances; and Sections 1002 (d), (e), (g), (h), and (i) (except insofar as such sections relate to foreign air transportation) which give CAB regulatory authority over air carrier rates and fares.

This section further provides that Section 412 of the Federal Aviation Act, insofar as it relates to interstate and overseas air transportation, and Sections 408 and 409 of the Federal Aviation Act, and related authority under Section 414 to award antitrust immunity, shall cease to be in effect on January 1, 1989.

(d) Amends the ADA provision transferring to the Postal Service CAB's authority to set the rates for domestic mail. The amendment excludes the carriage of mail within Alaska from this transfer. Under subsection (e), below, CAB's authority to set rates for the

transportation of mail within Alaska is transferred to the Department of Transportation. As discussed in Section (f) below, the bill establishes a sunset date for the transfer of Alaskan mail authority to DOT.

(e) Provides that all authority of CAB which this Act does not terminate on January 1, 1985, and which is not otherwise terminated or transferred, will be transferred to the Department of Transportation on January 1, 1985. The authority transferrred to DOT under this section includes the CAB's authority under Section 404 of the Act, to ensure safe and adequate service; the CAB's authority under Section 411 of the Act, to prevent unfair or deceptive practices or unfair methods of competition in air transportation; and the CAB's responsibilities under Section 401 of the Act, to ensure that carriers providing interstate or overseas air transportation are fit, willing, and able to perform the transportation proposed in their application and to conform to the requirements of the Federal Aviation Act and regulations adopted thereunder. Existing law transfers to the Department of Transportation CAB's authority with respect to foreign air transportation and CAB's authority under Section 419 of the Act to establish a program for small community air service. Existing law also transfers to the U.S. Postal Service CAB's authority to determine rates for the carriage of mail in interstate and overseas air transportation. The Postal Service is to exercise this authority through negotiations or competitive bidding. Section 3 of this bill transfers to DOT, CAB's authority under Sections 408, 409, 412 and 414 of the Federal Aviation Act.

(f) Establishes a sunset date of January 1, 1989 for the transfer to DOT of CAB's authority to set rates for the carriage of mail between points in Alaska. This will permit Congress to consider at that time whether Alaskan mail rates should continue to be set by regulatory decision or whether the rates for Alaskan mail should be determined by negotiation and competitive bidding, the methods used for other domestic mail.

Senate amendment

Same as the House bill except that transfers to the Department of Justice rather than the Department of Transportation CAB's authority under Sections 408, 409, 412, and related authority under Section 414, after sunset of the CAB.

Conference substitute

Same as House bill. The Conference Substitute modifies existing law to preserve the status quo for the transportation of mail in Alaska. Under the current system, mail in Alaska is transported by scheduled certificated air carriers at rates established by the CAB, and in some limited cases by carriers operating under contracts with the Postal Service. The governing statutes give the Postal Service some discretion to develop policies for selecting the carriers with which it will contract and to develop policies to ensure that mail is tendered to certificated carriers on an equitable basis. The Conferees intend that in exercising this discretion the Postal Service will use only carriers that have been operating in the State of Alaska for 90 days, or more, or in the case of a carrier

inaugurating service, if the Postal Service reasonably concludes, and the carrier certifies, that it will provide year-round service. The rationale for this policy is that it will encourage carriers to operate in Alaska on a year-round basis rather than only during the peak summer season. This 90-day policy should not be followed if it would result in insufficient capacity for the Postal Service to move the mail in accordance with its deadline. The Conferees further intend that carriers designated to provide essential air service under Section 419 be eligible to carry mail immediately upon designation.

TRANSFERS OF FUNCTIONS UNDER OTHER LAWS

House bill

Section 4 of the House bill transfers to the Department of Transportation the authority of CAB under specified laws other than the Federal Aviation Act.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

COLLECTION OF DATA

House bill

Section 5 of the House bill amends the authority of the Department of Transportation to collect information on civil aeronautics to require that after January 1, 1985, the Department will, at a minimum, continue to collect information on the origin and destination of passengers in interstate and overseas transportation and information on the number of passengers traveling between points in interstate and overseas transportation. However, the Department will not be permitted to require carriers to submit this data on a flight-by-flight basis. The traffic data will be collected on a summary basis by carrier, by market.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

REPORTS

House bill

Section 6 of the House bill requires the Secretary of Transportation to submit a report to the appropriate Committees of Congress not later than July 1, 1987, on the administration of Sections 408 and 409, 412 and 414 of the Federal Aviation Act and recommendations as to whether these authorities shall be continued. This section also requires the Secretary and the Postmaster General to

submit a similar report on authority to establish rates for the carriage of mail between points in the State of Alaska.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

INCORPORATION BY REFERENCE

House bill

Section 7 of the House bill amends Section 411 of the Federal Aviation Act to clarify CAB's authority to issue regulations establishing uniform requirements governing notice to passengers of the terms of the contract between the airline and its passengers which are incorporated by reference in a ticket.

The Section provides that air carriers may incorporate contractual terms by reference in accordance with regulations issued by the Board establishing uniform notice requirements concerning such incorporation by reference.

Senate amendment

Same as House bill, except requires that incorporation by reference must comply with all applicable regulations issued by the Board (not only regulations establishing uniform notice requirements).

Conference substitute

Same as Senate Amendment.

REFERENCE TO CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

House bill

Section 8 of the House bill provides that any reference in any law to a certificate of public convenience and necessity shall be deemed to refer to a certificate issued under Section 401 or Section 418 of the Federal Aviation Act.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

MISCELLANEOUS AMENDMENTS

House bill

Section 9 of the House bill makes amendments to conform the regulatory format in the Federal Aviation Act for interstate and overseas cargo transportation with the regulatory format governing interstate and overseas passenger transportation. Conforming changes are also made in a number of other statutes to reflect the termination of the CAB and the transfer of CAB authority to the

Department of Transportation after January 1, 1985. The CAB's right of access to the lands, buildings and equipment of air carriers under Section 407(e) of the Federal Aviation Act is limited to access necessary for a determination under Sections 401, 402, 418, or 419 that an air carrier is fit, willing and able. This amendment does not change the CAB's right of access to accounts, records, and memorandums kept by air carriers, foreign air carriers, or ticket agents.

Under this Section the Postal Service's contracting authority in title 39 of the U.S. Code is modified to conform to the provisions in the Deregulation Act authorizing the Postal Service to use competitive bidding or negotiations in the place of CAB ratemaking for interstate or overseas mail transportation (other than transportation between points in the State of Alaska).

The Section provides that between January 1, 1985 and January 1, 1989 the Postal Service will continue to have authority to contract for the transportation of mail between points in Alaska under 54 USC Section 5402 (a), (b), and (c). In contracts under Section 5402(a) not more than 10 percent of the domestic mail transportation shall consist of letter mail.

Senate amendment

Same as House bill, except that with respect to contracts under 54 USC Section 5402(a) for the transportation of mail between points in Alaska, the Amendment eliminates the requirement that not more than 10 percent of the mail transported under such contracts shall consist of letter mail.

Conference substitute

Same as Senate Amendment.

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

House bill

Section 10 governs the transfer and allocation of appropriations and personnel from the CAB to the agencies to which CAB functions are transferred.

The Section provides that the personnel (including members of the Senior Executive Service) employed in connection with any function transferred by section 1601(b) of the Federal Aviation Act or Section 4 of the House bill shall be transferred to the agency to which such function is transferred. Personnel employed in connection with functions so transferred shall be transferred in accordance with any applicable laws and regulations to transfer of functions.

Senate amendment

Same as House bill except clarifies that CAB employees transferred to other agencies by operation of any law, shall be transferred in accordance with any applicable laws and regulations relating to the transfer of functions.

Conference substitute

Same as Senate amendment. The intent of the Conference substitute is that all employees, including Senior Executive Service employees, employed in connection with any function transferred by Section 1601(b) of the Federal Aviation Act or Section 4 of the Conference substitute shall have the right to be transferred to the agency to which such function is transferred, even if there are no other laws or regulations governing such transfers.

EFFECT ON PERSONNEL

House bill

Section 11 of the House bill provides that transferred employees are entitled to have the CAB's evaluations used in determining merit pay, in addition to the evaluations of the new agency.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

SAVINGS PROVISIONS

House bill

Section 12 of the House bill provides for the continuation of all effective CAB orders and proceedings after termination of the Board. The Section further provides that with respect to functions transferred to other agencies, references in Federal laws to CAB shall be deemed to refer to the agency obtaining the function, and that with respect to any function transferred, the head of the agency receiving the function shall have the same authority as CAB.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

DEFINITIONS

House bill

Section 13 of the House bill defines "agency" and "function."

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

ACCESS FOR HANDICAPPED PERSONS

House bill

No comparable provision.

Senate amendment

Section 14 of the Senate amendment requires the Board or the Secretary to consult with the Architectural and Transportation Barriers Compliance Board prior to issuing or amending any order, rule, regulation, or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped persons.

Conference substitute

Same as Senate amendment.

Furtherance of the Public Interest of Air Transportation

House bill

No comparable provision.

Senate amendment

Section 15 of the Senate amendment provides that the Board may upon its own initiative or the reasonable petition of any person directly affected undertake such studies as may be necessary to determine the extent to which any aspect of air transportation furthers or hinders the public interest as set forth in the policy statement of the Federal Aviation Act. Such studies shall be concluded within 120 days of receipt of a petition and the result shall be forwarded to the appropriate Committee of the Congress.

Conference substitute

Same as House bill. The Conferees note that under Section 204(a) of the Federal Aviation Act the CAB has authority to conduct such investigations as it shall deem necessary to carry out the provisions of, and to exercise and perform its duties under, all provisions of the Federal Aviation Act. By Section 3 of the Conference Substitute, the CAB's authority under Section 204 will be continued and transferred to the Department of Transportation on January 1, 1985.

STUDY OF TRANSPORTATION TO AND FROM WASHINGTON DULLES AIRPORT

House bill

No comparable provision.

Senate amendment

Section 16 of the Senate amendment requires the Secretary of Transportation to study the feasibility of constructing a rapid rail transit line between the West Falls Church, Virginia station of the Washington, D.C. Metrorail System and Dulles International Airport. The Secretary shall complete this study and transmit the results to Congress not later than one year after the date of enactment of this Act.

Conference substitute

Same as Senate amendment.

ESSENTIAL AIR SERVICE IN THE STATE OF ALASKA

House bill

No comparable provision.

Senate amendment

Section 17 of the Senate bill provides that essential air transportation in the State of Alaska shall be operated with the size aircraft provided for in CAB Order 80-1-167 unless otherwise specified under an agreement between the Department of Transportation and the State of Alaska.

Conference substitute

Provides that until January 1, 1987, essential air service at Cordova, Yakutat, Gustavus, Petersburg, and Wrangell, Alaska shall be operated with the size aircraft provided for in CAB Order 80-1-167 unless otherwise specified under an agreement between the Department of Transportation and the State of Alaska. During this period, the compensation paid for essential air service at these five cities shall not exceed $3,572,778 in each of fiscal years 1985 and 1986, and $893,195 for the period October 1, 1986 to January 1, 1987. No later than January 1, 1986 the Secretary of Transportation shall prepare and submit to the Congress a report on the feasibility of providing essential air transportation to the foregoing five cities with aircraft having a smaller capacity than the aircraft listed in CAB Order 80-1-167, the level of compensation which would be required for such transportation, and the impact of using such aircraft on the air transportation system in Alaska, taking into consideration the service from those five cities to Anchorage and Juneau, Alaska, and Seattle, Washington.

RATES FOR THE CARRIAGE OF MAIL IN THE STATE OF ALASKA

House bill

No comparable provision.

Senate amendment

Section 17 of the Senate amendment provides that no part of the order of the Civil Aeronautics Board, Docket 38961 (CAB Order 84-6-77) shall enter into effect until after December 31, 1984.

Conference substitute

Same as Senate amendment.

NORMAN Y. MINETA,
GLENN M. ANDERSON,
ROBERT A. ROE,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

BOB PACKWOOD,
BARRY GOLDWATER,
NANCY LANDON KASSEBAUM,
FRITZ HOLLINGS,
J.J. EXON,
Managers on the Part of the Senate.

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